

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 13TH SEPTEMBER 2007 / 22ND BHADRA 1929

WP(C).No. 31780 of 2006(G)

PETITIONER:

MOTHER SUPERIOR, ST.AGNES CONVENT,
NAKKUPPATHY, AGALI, PALAKKAD DISTRICT.

BY ADV. SRI.PKM.HASSAN
SRI.FIROZ K.ROBIN

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
ITS SECRETARY, DEPARTMENT OF REVENUE,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

2. TAHASILDAR, MANNARKKADU.

BY GOVERNMENT PLEADER SRI. C.K. GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE ASSESSMENT ORDER DATED 25.2.2005 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

EXT.P2 TRUE COPY OF THE REPRESENTATION DATED 22.3.2005 FILED BY THE PETITIONER.

EXT.P3 TRUE COPY OF THE ORDER DATED 12.9.2006 PASSED BY THE FIRST RESPONDENT.

EXT.P4 TRUE COPY OF THE DEMAND DATED 20.10.2006 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

EXT.P5 TRUE COPY OF THE INTERIM ORDER OF STAY DATED 24.11.2006 IN WPC 26535 OF 2006

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 31780 OF 2006

Dated this the 13th day of September, 2007

JUDGMENT

While the case of the petitioner is that building assessed is a convent, Government Pleader relied on the report filed by the deputy Tahsildar after inspection and contended that building is partly used as hostel for accommodating teachers, students, etc. Even though the activity of accommodating persons whether students or employed ladies in a hostel is a service, the activity is commercial because rent is collected for the accommodation provided. According to the Government Pleader petitioner also admitted the use of the building partly for commercial purpose of the nature stated above. Petitioner's counsel pointed out that portion occupied by nuns for their residence is also assessed stating that the same is not a religious purpose. I do not this finding of the Tahsildar is tenable because nuns are residing in the building provided by the religious organisation. Since nuns are engaged mainly in religious activities and their residence is provided by the religious organisation to help them to carry on their profession,

the portion of the building used for residence of nuns qualifies for exemption along with chapel and other areas used by the nuns in the convent. However, the portion of the convent building which is let out as hostel to ladies, whether students or employed, can be assessed. Second respondent is directed to inspect the building and make assessment and grant exemption based on use as stated above. Revised assessment will substitute impugned orders which the second respondent is directed to issue within six weeks from the date of production of a copy of this judgment by the petitioner.

W.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge

